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## **1 - Luminant Asks Fifth Circuit to Review EPA Findings on Two Texas Power Plants**

BNA, 09/14/2012

[http://esweb.bna.com/eslw/1245/split\\_display.adp?fedfid=27996454&vname=denotallissues&jd=a0d4n8f1n6&split=0](http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=27996454&vname=denotallissues&jd=a0d4n8f1n6&split=0)

Summary: Luminant Generation Co. has asked a federal appeals court to review an Environmental Protection Agency finding that it violated Texas's clean air plan at two of its power plants (Luminant Generation Co. LLC v. EPA, 5th Cir., No.12-60694, 9/11/12). The petition for review, filed Sept. 11 in the U.S. Court of Appeals for the Fifth Circuit, challenges an EPA notice and finding of violation issued July 13 over two of the company's North Texas power plants, Big Brown and Martin Lake. In its notice, EPA alleged Luminant modified the two plants without obtaining appropriate permits under the Texas Title V permit process set out at 30 Tex. Admin. Code Chapter 122. The agency also alleged that the company failed to use best available control technology at the plants and that its actions resulted in significant emissions of sulfur dioxide and nitrogen oxides at the two facilities. Luminant and its affiliated company, Energy Future Holdings, "dispute the EPA's finding of a violation," the company said in a prepared statement.

## **2 - Stolthaven Braithwaite terminal may have released more than 191,000 gallons of toxic chemicals during Isaac**

New Orleans Times-Picayune, 09/13/2012

[http://blog.nola.com/hurricane\\_impact/print.html?entry=/2012/09/stolthaven\\_braithwaite\\_terminals.html](http://blog.nola.com/hurricane_impact/print.html?entry=/2012/09/stolthaven_braithwaite_terminals.html)

Summary: More than 191,000 gallons of toxic chemicals may have been released from the Stolthaven New Orleans petroleum and chemical storage and transfer terminal in Braithwaite during Hurricane Isaac, according to a company report filed Tuesday with the U.S. Coast Guard National Response Center. That's just one day after the Louisiana Department of Environmental Quality assured the public that monitoring at the facility detected no offsite contamination. Today, a DEQ spokesman said Stolthaven's report "lists the worst-case scenario for potential releases which includes tank contents that could not be accurately measured." "The actual amount released, the type of chemical and if it was released (air, water, etc.) has yet to be determined for the materials in this NRC update," said DEQ spokesman Rodney Mallett. "This investigation is still ongoing by DEQ and state, federal and local officials.

## **3 - CSAPR's Demise: The Big Picture**

Power Engineering Magazine, 09/13/2012

<http://www.power-eng.com/blogs/power-points/2012/09/CSAPRsDemiseTheBigPi.html>

Summary: It was not a unanimous decision, but it was the correct decision. Last month, an appeals court struck down the Environmental Protection Agency's Cross State Air Pollution Rule, a costly and unreasonable measure designed to cut NOx and SOx emissions that make meaningful contributions in noncompliant states. The proposed rule would have applied to 28 states, many of which challenged the rule in court, claiming the EPA preempted state authority by issuing its own plan to cut emissions in downwind states. The three-judge panel voted 2 to 1 to vacate the rule, which would have forced power producers to shutter a significant amount of reliable coal-fired generation. The ruling preserves the reliability of a national grid that was built around coal and gives the industry much needed time to develop responsible, cost-effective strategies for reducing NOx and SOx.

## **4 - Exxon refinery leak unlikely to affect production**

Dallas Business Journal, 09/13/2012

<http://www.bizjournals.com/dallas/news/2012/09/13/exxon-refinery-leak-unlikely-to-affect.html>

Summary: Irving-based Exxon Mobil Corp. (NYSE: XOM) has shut down a unit at its Baytown refinery to fix a leaking heat exchanger tube, and it's expected to last through Sunday, [the company has reported](#) to the Texas Commission on Environmental Quality. What's more, [NPR is reporting](#) that within that time, the leak could emit into the air 61,958 pounds of carbon monoxide; 51,437 pounds of sulfur dioxide; and 1,057 pounds of hydrogen sulfide. Those figures would exceed the facility's permitted emissions. And, according to the Environmental Protection Agency, five minutes of exposure can make breathing difficult, especially for folks with asthma, the elderly and the very young.

#### 5 - EPA to aid Baton Rouge's greening design

The Daily Comet (Lafourche Parish, LA), 09/14/2012

<http://www.dailycomet.com/article/20120914/APN/1209140636?Title=EPA-to-aid-Baton-Rouge-s-greening-design>

Summary: The U.S. Environmental Protection Agency is partnering with Baton Rouge to help create more green spaces and trails to connect the LSU area to downtown. Baton Rouge was one of five cities selected for the EPA's Greening America's Capitals program. The others are Indianapolis, Des Moines, Helena, Mont., and Frankfort, Ky.

#### 6 - EPA grants to help with runoff pollution in Oklahoma waters

The Oklahoman, 09/14/2012

[http://newsok.com/epa-grants-to-help-with-runoff-pollution-in-oklahoma-waters/article/3709502?custom\\_click=pod\\_headline\\_energy-news](http://newsok.com/epa-grants-to-help-with-runoff-pollution-in-oklahoma-waters/article/3709502?custom_click=pod_headline_energy-news)

Summary: The Environmental Protection Agency has awarded Oklahoma more than \$2 million in grants to help curtail several types of pollution in watersheds. The money will go to the state's secretary of environment to support the Oklahoma Nonpoint Source Management Plan, an ongoing effort to deal with runoff pollution from several sources. Nonpoint source pollution in Oklahoma is mostly carried from rainwater flowing across and into the ground. As it does, it may pick up pollutants such as excess fertilizer, animal waste or oil and grease from urban runoff.

#### 7 - D.C. Circuit Agrees to Hold in Abeyance Case Challenging Mercury Limits for New Utilities

BNA, 09/14/2012

[http://esweb.bna.com/eslw/1245/split\\_display.adp?fedfid=27996446&vname=denotallissues&jd=a0d4n8b6b6&split=0](http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=27996446&vname=denotallissues&jd=a0d4n8b6b6&split=0)

Summary: A federal court has put a [temporary stop](#) to litigation over the Environmental Protection Agency's mercury and air toxics standards for new power plants (White Stallion Energy Center LLC v. EPA, D.C. Cir., No. 12-1272, order issued 9/12/12). The U.S. Court of Appeals for the District of Columbia Circuit Sept. 12 granted EPA's [request](#) to hold the case in abeyance while the agency completes an [administrative reconsideration](#) of the standards ([141 DEN A-2, 7/24/12](#)). The emissions limits for new sources are more stringent than for existing sources, and issues specific to new plants are being litigated separately from other challenges to the rule. The Sept. 12 order does not affect the other challenges (White Stallion Energy Center v. EPA, D.C. Cir., No. 12-1100, response filed 9/12/12; Utility Air Regulatory Group v. EPA, D.C. Cir., No. 12-1166, motion filed 9/10/12). EPA in December issued a final rule setting numeric emissions limits for mercury, filterable particulate matter as a surrogate for toxic metals, and hydrogen chloride as a surrogate for acid gases ([246 DEN A-1, 12/22/11](#)).

#### 8 - Complaints mount on proposed oil spill settlement

Houston Chronicle, 09/14/2012

<http://fuelfix.com/blog/2012/09/14/complaints-mount-on-proposed-oil-spill-settlement/>

Summary: A New Orleans federal judge will receive an update Friday on the mountain of litigation surrounding the 2010 Gulf of Mexico oil spill, amid a surge of complaints about a proposed class-action settlement of some of the lawsuits. In the days leading up to the Friday status conference with U.S. District Judge Carl Barbier, the attorneys general of Louisiana and Mississippi, among others, have filed court documents objecting to various aspects of the deal. The settlement establishes a court-supervised center for collecting and evaluating the claims and proposing payouts using complex formulas based on such factors as where claimants lived and the damages they suffered.

## **Luminant Asks Fifth Circuit to Review EPA Findings on Two Texas Power Plants**

By [Nancy J. Moore](#)

AUSTIN, Texas—Luminant Generation Co. has asked a federal appeals court to review an Environmental Protection Agency finding that it violated Texas's clean air plan at two of its power plants (Luminant Generation Co. LLC v. EPA, 5th Cir., No.12-60694, 9/11/12).

The petition for review, filed Sept. 11 in the U.S. Court of Appeals for the Fifth Circuit, challenges an EPA notice and finding of violation issued July 13 over two of the company's North Texas power plants, Big Brown and Martin Lake. In its notice, EPA alleged Luminant modified the two plants without obtaining appropriate permits under the Texas Title V permit process set out at 30 Tex. Admin. Code Chapter 122. The agency also alleged that the company failed to use best available control technology at the plants and that its actions resulted in significant emissions of sulfur dioxide and nitrogen oxides at the two facilities.

Luminant and its affiliated company, Energy Future Holdings, “dispute the EPA's finding of a violation,” the company said in a prepared statement.

“Given recent legal precedent subjecting agency orders like the notice to judicial review, we filed the petition for review to preserve our ability to challenge the EPA's issuance of the notice and its defects,” the company said.

### **Covers Older Plants**

The Big Brown plant is a coal-fired plant producing 1,145 megawatts of energy. Unit 1 was built in 1971 and Unit 2 in 1972. The Martin Lake facility, also coal-fired, includes three units built in 1977, 1978, and 1979 and produces 2,250 megawatts.

Luminant is the largest electricity generator in Texas. It operates both coal- and natural gas-fired plants, as well as a nuclear power plant.

In its petition for review, Luminant said the Fifth Circuit venue is proper because the EPA action was “a locally applicable final action of the Administrator” rather than a nationally applicable action. Certain administrative actions by federal agencies are reviewable in the federal courts of appeal.

Luminant also has sued EPA in the Fifth Circuit over its regional haze rule ([152 DEN A-9, 8/8/12](#)).

### **Sierra Club Sues Luminant**

The Sierra Club sued Luminant in May over violation of opacity and emissions limits at Big Brown ([85 DEN A-16, 5/3/12](#)).

Patrick Gallagher, the Sierra Club's legal director, on Sept. 13 declined to say what the environmental organization's legal strategy would be with respect to this case but added, “We intend to do whatever it takes to not let them get away with this.”

Gallagher told BNA that the action is an “ill-guided preemptive strike against EPA” and said the company had no legal right to bring it, since the notice and finding of violation is not a final agency order.

Luminant is represented by Philip S. Gidiere III, Grady Moore III, and Thomas Casey III of Balch & Bingham in Birmingham, Ala.

EPA is represented by Scott Fulton, the agency's general counsel.

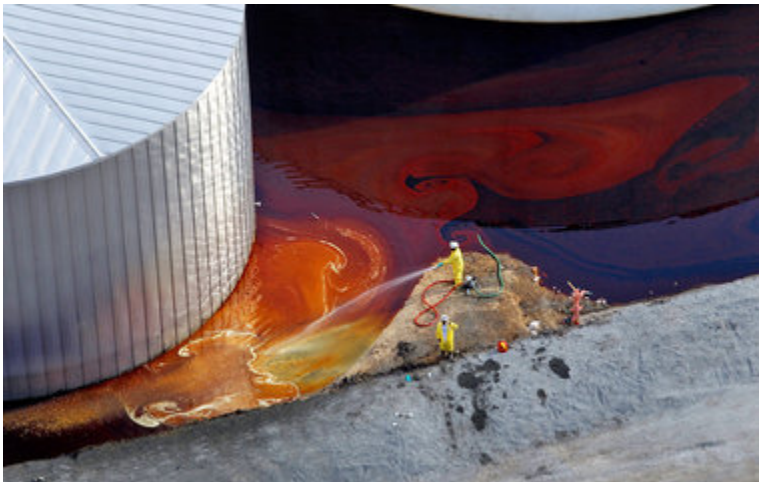
# Stolthaven Braithwaite terminal may have released more than 191,000 gallons of toxic chemicals during Isaac

Published: Thursday, September 13, 2012, 1:58 PM Updated: Thursday, September 13, 2012, 6:45 PM



By **Mark Schleifstein**, The Times-Picayune

More than 191,000 gallons of toxic chemicals may have been released from the Stolthaven New Orleans petroleum and chemical storage and transfer terminal in Braithwaite during **Hurricane Isaac**, according to a company report filed Tuesday with the U.S. Coast Guard National Response Center. That's just one day after the Louisiana Department of Environmental Quality **assured the public** that monitoring at the facility detected no offsite contamination.



**Enlarge David Grunfeld, The Times-Picayune** DAVID GRUNFELD / THE TIMES-PICAYUNE Workers at the Stolthaven chemical holding and transfer facility in Plaquemines Parish Thursday September 13, 2012. The company admitted to releasing more chemicals during Hurricane Isaac than initially thought. A report by Stolthaven to the National Response Center admits to releasing over 191,000 gallons of benzene, styrene, toluene and other chemicals into flood waters that entered Braithwaite, according to the Louisiana Bucket Brigade. **Stolthaven chemical admits to release during Hurricane Isaac** gallery (5 photos)

Today, a DEQ spokesman said Stolthaven's report "lists the worst-case scenario for potential releases which includes tank contents that could not be accurately measured."

"The actual amount released, the type of chemical and if it was released (air, water, etc.) has yet to be determined for the materials in this NRC update," said DEQ spokesman Rodney Mallett. "This investigation is still ongoing by DEQ and numerous state, federal and local officials.

"DEQ and others continue to monitor the air and have taken surface water samples and are reviewing plans to conduct soil samples," he said. "The current goal of all the responding parties is to clean up the facility and ensure public safety. Pre and post-storm reconciliation of the materials that were on site will better determine the actual amount released."

A flyover of the area by a Times-Picayune photographer this morning showed a significant quantity of liquid material adjacent to one of the tanks, with nearby workers dressed in clothing designed to protect them from hazardous chemicals.

"We know there were releases early in the event," Mallet said. "That's one of the reason for the extensive air monitoring which currently shows no off site impacts. The earlier releases are also one reason why we are in the process of beginning sediment sampling."

The area around the terminal along Louisiana 39 in Plaquemines Parish remains blocked to residential traffic as a precautionary measure as workers move volatile chemical containers back into place.



THE TIMES-PICAYUNE [View full size](#)

On Monday, DEQ emergency response manager Peter Ricca said any hazard remained on the facility's site. Company officials said then that the facility sustained severe flooding during Isaac, with parts of the plant under 7 feet of water. However, in the report, company officials said floodwaters were between 10 and 14 feet deep "which caused damages and leaks to some of the storage tanks."

"The release occurred on 29Aug2012 with the discovery date of 11Sep2012," the form said. "The quantities for all of the materials involved are not expected to exceed the specified amount."

Officials with the Louisiana Bucket Brigade said the report raises questions about DEQ's public reassurances.

"As of a few days ago, DEQ was offering assurances of safety to people, and this form exposes how lackadaisical they are about protecting us, and they should be fired," said Anne Rolfes, the group's executive director. "They were saying publicly that it was safe and nothing was released into the greater community, but it was clear from just driving through the neighborhood that something was wrong. They need to be honest and not just give kneejerk reassurances."

Rolfes said the report also shows that Stolthaven did not do enough to prepare for an expected flooding of its facility during the storm.

"They'll say that Isaac was an act of God, but they're supposed to be prepared to withstand floodwaters," she said.

DEQ and Stolthaven officials did not respond Thursday afternoon for comments on the report.

Stolthaven officials reported the release of nine toxic chemicals into floodwaters:

--Diethylethanolamine, 177,568 gallons. The chemical is used as a corrosion inhibitor and in the manufacture of agrichemicals and pharmaceuticals. It can cause eye and skin burns and can be harmful or fatal if swallowed, and his harmful if inhaled or absorbed through the skin, according to a material safety data sheet.

--Lubricating oil, 9,474 gallons.



- Styrene monomer, 1,036 gallons. The chemical is a key ingredient in plastics manufacturing; an eye and skin irritant, hazardous if ingested, according to a material safety data sheet.
- Toluene, 973.1 gallons; an industrial feedstock and solvent, it is an eye and skin irritant and hazardous when ingested.
- Xylene, 973.1 gallons; a solvent and feedstock used in manufacturing other chemicals, harmful when inhaled or comes in contact with skin, and hazardous if ingested.
- Ethylene glycol, 822 gallons; best known as an ingredient in antifreeze, hazardous when ingested and slightly hazardous in case of skin or eye contact.
- Ethylbenzene, 291.8 gallons; used in the manufacture of styrene and other chemicals; hazardous to eyes, when ingested or inhaled.
- Naphthalene, 97.3 gallons; best known as the ingredient of mothballs, is very hazardous if ingested, an eye irritant and hazardous if inhaled.
- Tetraethyl lead, 5.1 gallons; a banned gasoline additive in this country, harmful in contact with skin or eyes, can cause lung damage, and long-term exposure to lead can cause health problems in children.

## CSAPR's Demise: The Big Picture

By Russell R

It was not a unanimous decision, but it was the correct decision.

Last month, an appeals court struck down the Environmental Protection Agency's Cross State Air Pollution Rule, a costly and unreasonable measure designed to cut NOx and SOx emissions that make meaningful contributions in noncompliant states. The proposed rule would have applied to 28 states, many of which challenged the rule in court, claiming the EPA preempted state authority by issuing its own plan to cut emissions in downwind states.

The three-judge panel voted 2 to 1 to vacate the rule, which would have forced power producers to shutter a significant amount of reliable coal-fired generation.

The ruling preserves the reliability of a national grid that was built around coal and gives the industry much needed time to develop responsible, cost-effective strategies for reducing NOx and SOx.

The ruling also showed that the EPA's method for calculating the limits on NOx and SOx was fundamentally flawed. Just as important, it highlighted the EPA's propensity to skirt the law in its war on coal.

"It's the third or fourth ruling by a federal court that shows the EPA to be overriding the authority that the states have and conducting an unlawful regulatory program against coal," said Luke Popovich, a spokesman for the National Mining Association.

The court found that the EPA exceeded its authority. Specifically, the court pointed to the rule's statutory text, which "grants EPA authority to require upwind states to reduce only their own significant contributions to a downwind state's nonattainment... EPA has used the good neighbor provision to impose massive emissions reduction requirements on upwind states without regard to the limits imposed by the statutory text."

Translation: The EPA ignored individual state contributions to pollution problems in downwind states and imposed thresholds without regard to their actual contributions.

Oklahoma Attorney General Scott Pruitt put it like this: The rule “would have required Oklahoma to spend millions of dollars to retrofit power plants to address theoretical compliance issues in one county in Michigan.”

While the ruling served a valuable purpose by redefining the EPA’s authority over the U.S. power sector, don’t expect it to change much in the long term. The ruling will slow, not alter, the transition to gas-fired generation and stricter emission limits. The effect of CSAPR’s demise will be a significant delay in the implementation of utilities’ Air Quality Compliance Solutions.

There will be less fuel switching, but the low price of gas, the prospect of more regulation and the MATS (Mercury Air and Toxics Standards) rule will continue to drive the transition to simple cycle and combined cycle plants.

It may take years, but CSAPR will be reincarnated in one form or another. Some believe the EPA will re-write the Clean Air Interstate Rule, the rule CSAPR was meant to replace.

“CSAPR was the most complicated rule-making I’ve ever been engaged in,” [Gina McCarthy, assistant administrator for EPA’s Office of Air and Radiation](#), said last month at COAL-GEN 2012. “We had to look at two years of air modeling to understand where the pollution was coming from.”

The reaction from utilities has been mixed. A utility in Kentucky, Big Rivers Electric Corp., has asked state regulators for permission to drop its plan to comply with CSAPR, a move that would save the utility \$270 million. For the most part, though, utilities’ plans to retire coal-fired generation have not changed. Luminant, the largest power provider in Texas, said it will continue its capital investment program to comply with pending and expected environmental regulations.

“The court’s decision that the EPA overstepped its authority with CSAPR has the potential to slow the sector’s transition from coal to gas as a primary fuel,” said Laurie Oppel of Navigant. “While the decision can be seen as a short-term win for the coal industry, it likely won’t alter the path the electricity sector is currently on.”

So what’s next?

The EPA has until Oct. 5 to request a rehearing before the three-judge panel that vacated CSAPR, or it could request a review by the full court. If a rehearing is denied, the EPA may then appeal the decision to the U.S. Supreme Court. However, an appeal to the Supreme Court is unlikely because the odds of a favorable ruling are next to nil.

“The most likely outcome will be that EPA will go back to the drawing board, using its current modeling but taking into account current state attainment designations, and will come up with a new SIP (State Implementation Plan) call,” Jane Montgomery, partner at Schiff Hardin LLP, told *Power Engineering*.

# Exxon refinery leak unlikely to affect production

*Dallas Business Journal by Deon Daugherty, Houston Business Journal*

Date: Thursday, September 13, 2012, 1:56pm CDT

Irving-based Exxon Mobil Corp. (NYSE: XOM) has shut down a unit at its Baytown refinery to fix a leaking heat exchanger tube, and it's expected to last through Sunday, [the company has reported](#) to the Texas Commission on Environmental Quality.

What's more, [NPR is reporting](#) that within that time, the leak could emit into the air 61,958 pounds of carbon monoxide; 51,437 pounds of sulfur dioxide; and 1,057 pounds of hydrogen sulfide.

Those figures would exceed the facility's permitted emissions. And, according to the Environmental Protection Agency, five minutes of exposure can make breathing difficult, especially for folks with asthma, the elderly and the very young.

The refinery is one of Baytown's largest, and the impact of the leak on production is expected to be minimal, Irving-based Exxon Mobil said in its report.

"We expect to meet our contractual agreements," the report said.

Raymond James analyst Stacey Hudson in Houston said typically, an emissions event isn't likely to impact the company isn't a big deal for a big company.

"It's not a huge deal for them," Hudson said. "Even if it is bad PR, it's not going to move (down) the stock."

Sure enough, a quick look at trading this morning shows Exxon Mobil stock trading up 12 cents to \$89.68 per share.

## EPA to aid Baton Rouge's greening design

The Associated Press

*BATON ROUGE, La.* - The U.S. Environmental Protection Agency is partnering with Baton Rouge to help create more green spaces and trails to connect the LSU area to downtown.


Baton Rouge was one of five cities selected for the EPA's Greening America's Capitals program. The others are Indianapolis, Des Moines, Helena, Mont., and Frankfort, Ky.

The Advocate reports ( <http://bit.ly/SGSyZH> ) that while specific details were not yet available, the EPA will provide design assistance from private sector experts to help Baton Rouge and the other capital cities demonstrate sustainable designs intended to create vibrant neighborhoods and strengthen local economies.

In a letter to the EPA, former Baton Rouge Chief Administrative Officer John Carpenter says the proposed "Downtown Greenway" is a 2.75-mile pedestrian and biking corridor that will feature increased lighting, landscaping, public art and more.



# EPA grants to help with runoff pollution in Oklahoma waters

By [Paul Monies](#) | Published: September 14, 2012 0

The Environmental Protection Agency has awarded Oklahoma more than \$2 million in grants to help curtail several types of pollution in watersheds.

The money will go to the state's secretary of environment to support the Oklahoma Nonpoint Source Management Plan, an ongoing effort to deal with runoff pollution from several sources.

Nonpoint source pollution in Oklahoma is mostly carried from rainwater flowing across and into the ground. As it does, it may pick up pollutants such as excess fertilizer, animal waste or oil and grease from urban runoff.

Tyler Powell, director of the environment secretary's office, said the grant money is actually an extra allocation provided by the EPA. It comes from other states in the region that didn't spend the money on environmental projects.

“We’ve led the way for a long time on nonpoint source pollution mitigation through the Oklahoma Conservation Commission,” Powell said. “What this shows is Oklahoma is doing its part in the region. This is a way to help those states.”

The \$2 million in grants will be used for four projects, Powell said. About \$811,000 will go toward retention cells to reduce phosphorus and sediment in urban waterways. Another \$640,000 will be used for riparian protection in the Eucha/Spavinaw watershed in northeastern Oklahoma.

Almost \$432,000 will go to the priority watershed implementation projects for Eucha/Spavinaw, Illinois River and Honey Creek watersheds. The remaining \$176,000 will be used for sediment and phosphorus load reduction and stream bank stabilization projects.

Apart from the special allocation announced Thursday, Oklahoma normally gets about \$2.4 million in federal funding each year toward nonpoint source pollution mitigation, said Gayle Bartholomew, environmental grants manager for the office.

## **D.C. Circuit Agrees to Hold in Abeyance Case Challenging Mercury Limits for New Utilities**

By [Jessica Coomes](#)

A federal court has put a [temporary stop](#) to litigation over the Environmental Protection Agency's mercury and air toxics standards for new power plants (White Stallion Energy Center LLC v. EPA, D.C. Cir., No. 12-1272, order issued 9/12/12).

The U.S. Court of Appeals for the District of Columbia Circuit Sept. 12 granted EPA's [request](#) to hold the case in abeyance while the agency completes an [administrative reconsideration](#) of the standards ([141 DEN A-2, 7/24/12](#)). The emissions limits for new sources are more stringent than for existing sources, and issues specific to new plants are being litigated separately from other challenges to the rule. The Sept. 12 order does not affect the other challenges (White Stallion Energy Center v. EPA, D.C. Cir., No. 12-1100, response filed 9/12/12; Utility Air Regulatory Group v. EPA, D.C. Cir., No. 12-1166, motion filed 9/10/12).

EPA in December issued a final rule setting numeric emissions limits for mercury, filterable particulate matter as a surrogate for toxic metals, and hydrogen chloride as a surrogate for acid gases ([246 DEN A-1, 12/22/11](#)).

### **Monthly Reports Required**

The court's order requires EPA to file status reports every 30 days, which "reflects the court's awareness there are significant errors [that] need to be corrected sooner rather than later," Eric Groten, an attorney with Vinson & Elkins LLP who represents one of the petitioners, White Stallion Energy Center LLC, told BNA Sept. 13

EPA has said it expects to finish the reconsideration process by March 2013, and Groten said that means a proposed rule could be out as soon as October.

The new power plant petitioners are White Stallion Energy Center, Sunflower Electric Power Corp., Tri-State Generation and Transmission Association Inc., Power4Georgians LLC, Deseret Power Electric Cooperative, and Tenaska Trailblazer Partners LLC. They are developing five new coal-fired power plants in Texas, Kansas, Georgia, and Utah.

EPA announced July 20 it would reconsider the mercury and air toxics standards for new plants, following complaints that the mercury limits are so low that they cannot be continuously monitored.

The Institute of Clean Air Companies, the International Brotherhood of Boilermakers, and others had asked EPA to reconsider the mercury limits for new sources because without the ability to continuously monitor emissions, new coal-fired plants could not be built ([84 DEN A-1, 5/2/12](#)).

# Complaints mount on proposed oil spill settlement

Posted on September 14, 2012 at 6:48 am by [Emily Pickrell](#) in [Accidents](#), [BP](#), [Gulf Oil Disaster](#), [Gulf of Mexico](#), [Legal issues](#)  
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Fire boat response crews spray water on the blazing remnants of the Deepwater Horizon offshore oil rig. (AP Photo/US Coast Guard, File)

A New Orleans federal judge will receive an update Friday on the mountain of litigation surrounding the 2010 Gulf of Mexico oil spill, amid a surge of complaints about a proposed class-action settlement of some of the lawsuits.

In the days leading up to the Friday status conference with U.S. District Judge Carl Barbier, the attorneys general of Louisiana and Mississippi, among others, have filed court documents objecting to various aspects of the deal.

They want Barbier to rule on their objections before a hearing scheduled to begin Nov. 8 on the fairness of the proposed settlement between British oil company BP and a steering committee representing thousands of individuals and businesses harmed in the oil spill that followed the blowout of BP's Macondo well.

The settlement establishes a court-supervised center for collecting and evaluating the claims and proposing payouts using complex formulas based on such factors as where claimants lived and the damages they suffered.

The blowout led to an explosion that killed 11 men aboard the Deep-water Horizon drilling rig, but the settlement does not cover injury or wrongful death claims related to the rig disaster. It also doesn't settle civil and possible criminal action by governments, suits among various companies over culpability for the accident, or claims against companies other than BP.

Mississippi Attorney General Jim Hood has asked the court to examine an earlier process BP set up, the Gulf Coast Claims Facility. His motion refers to "illegal and illegally obtained" quick-claims through which some plaintiffs received offers of cash settlements in exchange for releasing defendants from further claims.

Louisiana Attorney General Buddy Caldwell has raised objections to the settlement's calculations for compensation to people in the seafood industry, and its assessment of economic and environmental damage to the Gulf Coast.

Groups representing seafood workers question a cap on their potential compensation.

While Barbier is not expected to make rulings at the status meeting, it will give him a chance to consider what further information he will need for the November hearing.

"The parties proposed a solution, and he found it reasonable. Now the judge is in the position of receiving evidence to determine whether it is actually working," said Chris Dean, a Houston attorney for several spill plaintiffs.

BP has said it believes the settlement is working as intended when it was agreed upon by the company and the Plaintiffs' Steering Committee.

"As anticipated in the schedule set by the court, and as is common in any class-action settlement approval process, some class members have filed objections to the settlement," said Scott Dean, a BP spokesman.

"BP's and the PSC's responses to these objections are due Oct. 22, 2012. As we have said repeatedly, BP and the PSC believe that the settlement agreements, which received preliminary approval by the Court on May 2, 2012, are fair, reasonable and adequate under the law."

Plaintiffs' Steering Committee representatives were unavailable for comment.

After Barbier tentatively approved the deal in May, the Deepwater Horizon Claims Center began accepting claims. But that process has moved slowly.

Last week, the claims center said that it has made 38 settlement offers in response to more than 25,000 economic claims from businesses and individuals, and has made no payments.

Plaintiffs' lawyers, government officials and claimants themselves have complained that without offers, claimants have no basis for deciding ahead of a Nov. 1 deadline whether to opt out of the settlement and pursue their own litigation.

"The problem with this settlement is that claimants won't know what they are getting until the settlement is complete," said Brent Coon, a Beaumont attorney representing about 15,000 spill clients. "When that number finally pops up, they will have already waived their right to complain."